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July 28, 1999

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12 St., S.W.
Room TW-B204F
Washington, D.C. 20554

Re: Comments in CC Docket No. 99-200

In the Matter of Numbering Resource Optimization

Dear Ms. Salas:

Enclosed for filing in the above referenced matter are an original and four copies of the comments of the North Carolina Utilities Commission. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Erin K. Duffy
North Carolina Utilities Commission Staff
430 N. Salisbury Street
Raleigh, North Carolina 27603
(919) 715-9006

Before the
Federal Communications Commission
Washington, D.C. 20554

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Comments of the North Carolina Utilities Commission on the Notice of Proposed
Rulemaking on Number Conservation and Area Code Relief

CC Docket No. 99-200

North Carolina Utilities Commission

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Before the
Federal Communications Commission
Washington, D.C. 20554

I. Background

The North Carolina Utilities Commission (NCUC) submits these comments in response to the Notice of Proposed Rulemaking (NPRM) on number conservation and area code relief which the Federal Communications Commission (FCC) released on June 2, 1999. The NCUC supports the FCC's undertaking to address the numbering crisis. North Carolina, like many other states, has had to endure the implementation of new area codes when there are, in actuality, many individual line numbers available for assignment in existing area codes. North Carolina citizens have borne the inconvenience and expense associated with the implementation of new area codes. The NCUC urges the FCC to move quickly to implement measures that will lead to more efficient use of numbering resources in the North American Numbering Plan (NANP), so that implementation of new area codes becomes an unusual occurrence, rather than something that state commissions are addressing constantly. The FCC must take action sooner rather than later because state commissions are being forced to order the implementation of new area codes all the time.

II. Summary of Arguments

- The FCC should implement various administrative safeguards to ensure that carriers cannot obtain numbers for which they have no need or "stockpile" numbers. These administrative safeguards include: (1) carrier verification of need for numbers; (2) carrier reporting and record-keeping requirements; (3) audits; and (4) reclamation of numbering resources which are obtained but are not activated or put into use. State commissions should be delegated enforcement authority.
- The FCC should adopt a national plan for "thousands-block number pooling," which would allow numbers to be assigned in blocks of 1,000 numbers, rather than 10,000 numbers. The national plan should include technical standards and administrative guidelines.

- State commissions should have flexibility to evaluate the particular circumstances in their area codes and determine what number conservation measures would be most appropriate, beneficial, and cost effective.
- The FCC should not condition implementation of number pooling on rate center consolidation. Rate center consolidation may in some instances increase the effectiveness of number pooling, and preliminary studies have indicated that it would do so in North Carolina. However, conditions vary widely from state to state. Rate center consolidation raises many complex issues (for example, it impacts call rating and E911 systems) and will be easier for some states to implement than others. Some states may be able to derive benefits from number pooling without rate center consolidation, and should not be prohibited from doing so.
- The FCC should not order mandatory, nationwide ten-digit dialing.
- A carrier "pick and choose" scheme for number conservation should not be adopted. State commissions, again, should have the flexibility to address number conservation issues in their states. If carriers simply pick what number conservation solutions they want to use there will be no consistency or order to number conservation. Further, such a scheme would have the potential to significantly diminish the effectiveness of thousands-block number pooling, because regulators would not be able to require carriers to participate.
- The FCC should reconsider the ten-digit dialing requirement for area code overlays.
- The FCC should examine the possibility of statewide, regional, or even nationwide area codes that are service-specific or technology-specific.

III. Administrative Measures

The NCUC is generally supportive of the various administrative measures the FCC proposes to constrain carriers' abilities to hoard numbers for which they have no immediate need. The NCUC believes that carriers should have more responsibility to provide information about number utilization and forecasts. Further, as the FCC notes, the administrative measures the FCC proposes would impose minimal costs on the industry, could likely be implemented fairly quickly, and could immediately be applicable to all service providers that use numbering resources.

Categories of Number Usage. The NCUC agrees with the FCC's tentative conclusion that a uniform set of definitions for the status of numbers should be established for purposes of implementing the number conservation proposals set forth in the NPRM. It is the NCUC's position that the definitions should be incorporated into FCC rules, to the extent it is possible to do so and still maintain the flexibility to add new categories of usage or change the definitions as circumstances warrant. At a minimum, if the definitions are simply part of industry guidelines, the FCC's rules should require all carriers to use the uniform definitions when reporting on number utilization. In the NCUC's view, the definitions proposed in the NPRM are necessary and will be useful to ensure more precise analysis of number utilization data. As much specificity as possible is required to ensure that all carriers have the same understanding of categorization of numbers for reporting purposes. The NCUC generally agrees with the proposed definitions as set forth in the NPRM, but recognizes that the service providers who actually use the numbering resources have more expertise in defining the various categories of number usage.

The NCUC suggests that, in establishing the definitions of categories of number usage, certain measures be taken to avoid potential abuses. With regard to "employee/official numbers" and "test numbers" it could be helpful if the definitions were tightened to specify which uses are appropriate and which are inappropriate. Similarly, there should be limits on the amount of time a number may remain in "aging" status and the amount of time during which a number is in "assigned" status because a customer service order is considered to be "pending."

Regarding the definition of a "reserved" number, the NCUC agrees with the FCC's conclusion that, without a narrow definition, carriers can use the reserved status to accumulate and hoard excessive inventories of numbers. The NCUC believes that an appropriate definition and guidelines for reserved numbers can be developed using the NANC's working set of characteristics for reserved numbers that were set forth in the NPRM. The NCUC supports setting time limits on the amount of time an NXX code may be held in reserved status, and believes that the suggested interval of 45 days is the maximum period of time that may be appropriate. While requiring carriers to pay a fee for numbers held in reserved status may also eliminate potential abuses, the NCUC shares the concerns of other state commissions that these fees may impede new entrants. Further, the costs may be passed on to customers.

Verification of Need for Numbers. The NCUC supports the implementation of more stringent mechanisms for verifying carriers' need for numbers, and believes that such verification will reduce instances where carriers obtain numbers that they are unable to use in the near term. The FCC rules should require that service providers verify their need for numbers by supplying appropriate data (such as the Part IV forms

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for NXX codes already assigned to them, and the Months-to-Exhaust Worksheet for those NXX codes) to the NANPA when requesting assignment of numbering resources.

Regarding initial codes, the NCUC supports the suggestion, also made by other state commissions, that, in order to obtain an initial code, a carrier must, at a minimum, demonstrate to NANPA that it has state certification for the particular rate center where it is requesting the NXX code. If requested, the carrier should be prepared to submit its business plan to NANPA or the appropriate state commission, as long as there is adequate protection in place for confidential information. NANPA should periodically inform state commissions of the number of NXX codes assigned in the state and the number of pending requests, and state commissions should have the option of being involved in the process if they so desire and their resources permit.

Regarding growth codes, the NCUC supports the FCC's tentative conclusion that applicants should be required to provide data that supports their need to obtain additional numbering resources, as a means of preventing the building and carrying of excessive inventories. The NCUC further agrees with the FCC's conclusion that the NANPA should be prohibited from allocating additional numbering resources to an applicant, unless the applicant has made a satisfactory demonstration of need. The NCUC shares the FCC's concerns about the current Months-to-Exhaust Worksheet and its effectiveness in verifying need for numbers.

The NCUC believes that numbering utilization, or "fill rates," may be a better indicator of need for numbers. As the FCC notes, a number utilization threshold is an objective measurement that can be verified before an applicant receives numbering resources, and it reflects historical experience in using numbering resources, rather than relying on marketing projections. The NCUC supports the FCC establishing a reasonable fill rate that will ensure that carriers cannot obtain numbering resources for which there is no legitimate need, but will allow carriers to obtain numbering resources for which there is a legitimate need in a timely fashion. In some cases, it may be appropriate for state commissions to adjust the threshold upward or downward to account for a particular situation, and the NCUC requests that states be given the authority to make such adjustments. The NCUC believes that the fill rates should be the same for all industry segments, and that variations to account for special circumstances can be handled on a case-by-case basis. Similarly, any fill rate should apply in rural as well as urban areas, because if efficient number utilization is realized throughout an area code, there will be a cumulative benefit. The NCUC supports the calculation of utilization rates on a rate center basis. This calculation will provide the necessary specificity to verify a legitimate need for a growth code. Further, the NCUC believes that newly acquired codes should be included in calculating a carrier's utilization rate in a given rate center. If carriers do not include the newly acquired

codes, they might be able to acquire additional numbering resources without efficiently using their current resources.

Reporting/Record-keeping Requirements. The NCUC strongly agrees with the FCC's conclusions that the accuracy of number utilization and forecast reporting needs to be improved, and that the current Central Office Code Utilization Survey (COCUS) is inadequate to meet the needs of the industry, the NANPA, and federal and state regulators. The NCUC supports the codification of FCC rules implementing a mandatory reporting scheme, as recommended by the North American Numbering Council (NANC). The new scheme should be more extensive, detailed, and uniform, as the FCC tentatively concluded. The NCUC agrees that the NANPA should be the single point of collection for number utilization and forecast data. State commissions should be allowed access to all data collected at the national level, as long as appropriate confidentiality protections are in place. Further, state commissions should have the flexibility to require additional information from carriers if circumstances warrant.

Regarding the specific data elements carriers should be required to track, the NCUC supports a requirement that NXX code holders report the status of all telephone numbers within the NXX blocks assigned to them, according to a standard set of definitions. The NCUC agrees that any obligation to report number utilization would be in addition to the forecasting requirements that COCUS currently places on carriers. The NCUC agrees with the FCC's conclusion that telephone number status data should be reported at the rate center level, at a minimum. The NCUC also sees potential benefit in the reporting of utilization data at the thousands-block level, from both LNP-capable and non-LNP capable carriers. Even where pooling has not been implemented, it would be beneficial to have the more granular data to help determine what the benefits of pooling would be in a particular area code.

Regarding the frequency of reporting utilization and forecast data, the NCUC supports the recommendations of the NANC. The "hybrid" approach that the NANC recommends calls for varying degrees of frequency of submission of utilization and forecast data: semi-annual collection in pooling areas and non-pooling area codes within a five-year exhaust window, and annual collection in non-pooling area codes outside of the five-year exhaust window. However, the NCUC would support moving to more frequent data collection if it proved to be necessary, and supports state commissions having specific authority to order more frequent reporting if local conditions warrant such action.

The NCUC supports the NANC's recommendation that state commissions have access to utilization data collected at the national level. Specifically, NANC

recommends that state commissions have access to aggregated utilization data for a stated purpose and to carrier-specific data when there is a legally enforceable confidentiality agreement. The NCUC understands carriers' concerns that utilization data be kept confidential, and is willing to take all necessary steps to protect the confidentiality of proprietary data.

The FCC also sought comment on alternative data collection options, such as the reporting process in the current Thousand Block Number Pooling Guidelines, the Line Number Utilization Survey (LINUS) developed by NANPA staff, and other options proposed by AT&T and US West. It is the NCUC's position that the NANC and its Number Resource Optimization (NRO) Working Group put a great deal of effort into developing a recommendation on an enhanced data collection model that will provide enough data for the NANPA to accurately forecast area code and NANP exhaust and understand how numbering resources are being used, and for regulators at the federal and state levels to have a clear picture of number utilization and forecasts in their areas of concern, while not burdening carriers with unnecessary or excessive reporting requirements. Therefore, while the NCUC might find certain aspects of other options attractive (such as the mandatory nature of participation in LINUS) it supports the hybrid proposal recommended by the NANC as a good starting point for implementation of an improved data collection model.

Audits. The NCUC agrees with the FCC's conclusion that there needs to be a comprehensive audit program that verifies carrier compliance with federal rules and industry numbering guidelines. The NCUC supports the use of "for cause" audits, regularly scheduled audits, and random audits, but submits that improved verification and data collection procedures may reduce the need for regularly scheduled audits, and that resources may be better used concentrating on for cause and random audits.

Regarding for cause audits, the NCUC agrees that they should be part of a comprehensive audit program, and believes that state commissions, the FCC, or the NANPA should have the authority to initiate for cause audits. The NCUC supports subsequent follow-up audits on carriers that in previous years had been subject to for cause audits for supplying inaccurate or misleading data or forecasts. The NCUC agrees that a three year schedule for regularly-scheduled audits represents a reasonable compromise between effective auditing and cost containment. It is the NCUC's position that random audits are also an effective mechanism to ensure accurate reporting by carriers. State commissions should have authority to order random audits if there are problems with data that carriers are reporting, or if other circumstances indicate that a random audit is necessary.

Regarding the question of what entity should conduct audits, the NCUC believes

that the FCC should direct the NANC to select a neutral third party entity to audit carrier number utilization and forecast data using a competitive bidding process that is subject to FCC approval. State commissions should have access to the data supplied to the auditors and to the auditor's findings, if they so desire, and should be kept informed of all auditing activities. If state commissions desire to conduct independent audits and have the resources to do so, they should have the authority to do so.

The NCUC agrees that state commissions may have valuable insight and expertise to offer as an audit framework and procedures are developed. Since NANC and the Industry Numbering Committee (INC) have already been working on a comprehensive audit process, the NCUC suggests that state commissions work through the NARUC representatives on the NANC to participate in that work. Further, state commissions are free to participate in the NANC Working Groups that are addressing the auditing issues, to the extent their resources permit. The NCUC notes that NANC Working Groups often accommodate electronic participation and participation by conference calls.

Enforcement. The NCUC wholeheartedly agrees that an appropriate enforcement mechanism is necessary to ensure compliance with any administrative measures that are implemented on the part of all users of the numbering resource. As the FCC noted, the NANPA, state commissions, and the FCC each have distinct roles to play in enforcing any number utilization rules. The NCUC agrees with the FCC's statement that there are situations in which enforcement actions are more appropriately taken by regulatory authorities than by the numbering administrator, such as when enforcement action involves a more subjective evaluation or may call the NANPA's neutrality into question. The NCUC does not believe that a state commission's carrying out enforcement activities would constitute "number administration," which, in the NCUC's view, constitutes the activities associated with the actual assignment and allocation of numbering resources.

In those instances where enforcement involves an objective or quantitative evaluation and would not compromise the NANPA's neutrality, the NANPA should perform enforcement activities in the first instance. At a minimum, the NANPA should keep the state commissions informed of what enforcement actions the NANPA is taking against carriers in the state. State commissions could provide a route of appeal from NANPA enforcement actions in those cases. In those instances where enforcement actions are more appropriately handled by a regulatory authority in the first instance, the state commissions should handle enforcement for violations that are local in nature. The state commissions should work with NANPA to develop procedures under which the state commissions can be informed of the alleged violation, receive relevant documentation, and receive input from the carrier that has allegedly violated a rule.

Once the state commission takes enforcement action against a carrier, the carrier could appeal the state commission decision to the FCC. Further, the FCC should take enforcement action when a carrier's violations cross state lines or occur in multiple states.

The NCUC agrees that the NANPA should be empowered to withhold NXX codes as a sanction for violation of any FCC rules regarding numbering administration and assignment, or for violation of the NXX Code Guidelines, especially where the violation involves failure or refusal to supply accurate and complete utilization or forecast data. The withholding of numbering resources is likely to be the most effective deterrent to abusing the number allocation and data collection processes. The NCUC would also support NANPA's withholding future numbers based on current violations when an offending carrier has no pending requests for numbering resources. State commissions should have the authority to order the NANPA to withhold NXX codes in those instances where the state commissions will be taking enforcement action.

Reclamation of NXX Blocks. The NCUC would be very supportive of the FCC's modifying the current NXX code reclamation procedure to address the current competitive status of the industry. As the FCC points out, the current guidelines require an NXX code assignee to activate a code by placing it "in service" within six months of assignment. However, a code is considered to be in service when the assignee has transmitted local routing information to the Local Exchange Routing Guide (LERG). The carrier does not have to assign and activate any number from the block to end-user customers to satisfy the activation requirement, and may apply to the NANPA for a 90-day extension to place the code in service. Further, assignees can reserve NXX codes for eighteen months, and can obtain a six-month extension of the reservation. The industry guidelines require the assignee to return the NXX code to the NANPA if it has not been activated within six months of assignment, and the guidelines direct the NANPA to initiate reclamation action if the NXX code has not been activated within eighteen months. The NANPA is to refer to the INC for resolution certain instances where NXX codes have not been returned for reassignment by the assignee, and some applications for extension of the NXX code activation date.

The NCUC agrees with the FCC's conclusion that the current activation and reclamation requirements and timeframes in the industry guidelines should be changed to encourage more efficient use of NXX codes. The definition of placing a code "in service" should be clarified to mean that the carrier not only has transmitted local routing information to the LERG, but has also begun activating and assigning numbers within the NXX code to end-users. To avoid potential abuses by carriers that just assign a few numbers in an otherwise unused code to avoid reclamation, the NANPA should use the number utilization data that it collects to make sure there are ongoing

number assignments in NXX codes.

The current reclamation procedures should also be modified to require the NANPA to initiate NXX code reclamation within 60 days of expiration of the assignee's applicable activation deadline, as suggested by the FCC. The NCUC agrees that this modification will limit the length of time that an NXX code can be left idle and will encourage better recycling of unused NXX codes. The NCUC also supports reducing the amount of time during which a carrier may reserve an NXX code from eighteen months to three months and reducing the period of potential extension from six months to thirty days. The NCUC favors the codification of these deadlines into FCC rules.

The NCUC agrees with the FCC's conclusion that it should delegate authority to state public utility commissions to order NXX code reclamation in accordance with the industry guidelines, and any changes thereto adopted during the course of this proceeding. It is the NCUC's position that questions or disputes about code activation, deadline extensions, or reclamation should be referred directly from NANPA to the state commissions, rather than the INC. State commissions should have the flexibility to use their current processes to adjudicate any disputes referred by the NANPA, or to develop new procedures if necessary.

Cost Elements and Cost Recovery. The NCUC generally agrees with the FCC's conclusions that the administrative solutions proposed in the NPRM largely involve changes in the manner in which the NANPA oversees and manages numbering resources and that, therefore, it is appropriate that the costs of the administrative measures should be allocated and recovered through the existing NANPA fund formula. The NCUC also agrees that the costs of the administrative measures should be borne by all telecommunications carriers on a competitively neutral basis.

IV. Other Numbering Optimization Solutions

Rate Center Consolidation. The NCUC agrees that rate center consolidation can be an important long-term measure to optimize the utilization of numbering resources. The NCUC has recently obtained information from North Carolina carriers on possible rate center consolidation plans, and is studying the feasibility and the implications of implementing rate center consolidation in North Carolina.

The NCUC would support the FCC's delegating additional authority to state commissions to require NXX code holders to return vacant, unused codes that are no longer needed because of consolidation, and believes that this measure could help state commissions realize the full benefits of rate center consolidation. The NCUC

does not have the technical expertise to comment on the Colorado Telephone Numbering Task Force's proposal for eliminating the link between call rating and NXX codes by using the Signaling System 7 (SS7) network, rather than the current reliance on associating NPA-NXX combinations with specific vertical and horizontal coordinates of a rate area to transmit the information required for the rating and routing of every call. However, the NCUC agrees with the FCC that the proposal is worthy of exploration as a potential means to reduce the demand for additional NXX codes.

Regarding the relationship between rate center consolidation and other numbering optimization measures such as number pooling, the NCUC does not support the FCC's delegating authority to state commissions to order number pooling only after they have undertaken rate center consolidation in the area in question. The NCUC agrees that, in some cases, rate center consolidation might significantly enhance the benefits of number pooling.¹ However, conditions and circumstances vary a great deal from state to state, and pooling might yield significant benefits without rate center consolidation in some areas. Further, rate center consolidation involves many complicated issues, including but not limited to rate increases for customers and potential impacts on emergency 911 systems. Some state commissions could implement rate center consolidation fairly easily, and it would be far more difficult for others. Predicating pooling implementation on rate center consolidation could deny some states the opportunity to avail themselves of number pooling at all. State commissions need to have the flexibility to consider all potential number conservation measures including number pooling and rate center consolidation (either separately or in combination) and to weigh the various impacts of the measures on consumers in their states. State commissions are in the best position to determine what measures will yield the most benefits in terms of number conservation and will be best for consumers.

Mandatory Ten-Digit Dialing and Related Measures. The NCUC does not support the adoption of nationwide ten-digit dialing or the mandatory unblocking of the

¹ In fact, a preliminary number pooling study for certain North Carolina area codes conducted by Lockheed Martin for the NCUC indicated that the benefits of number pooling would be minimal. However, when the NCUC hosted an informal technical conference to discuss area code and number conservation issues, a Lockheed Martin representative indicated that the benefits of pooling would be greater if rate center consolidation was implemented in North Carolina. See November 23, 1998 Technical Conference Testimony of Barry Bishop, Lockheed Martin IMS, pp. 24-30. Area Code Relief Plan for the 704/910/919 Numbering Plan Areas, Docket No. P-100, Sub 137.

"D" digit. State commissions need to retain the flexibility to judge when, if ever, adoption of ten-digit dialing is necessary and appropriate in their states, based on their consideration of local situations and understanding of consumer preferences. The NCUC recognizes the increase in the quantity of NXXs available within an NPA by the unblocking of the "D" digit, but does not have the technical expertise to comment on whether expansion of the "D" digit could be done on a statewide or NPA-wide basis, rather than at a mandatory national level by all service providers.

LNP-Based Solutions: Number Pooling. The NCUC supports the adoption of a uniform plan for thousands-block number pooling as soon as possible, including technical standards and administrative guidelines. The NCUC believes that the benefits of number pooling will be increased if number pooling is available in all areas that are LNP-capable, regardless of whether the area is a "major market" or not. All switches that are LNP-capable should use the same basic implementation plan for number pooling, and, as additional switches become LNP-capable, they should be subject to the same uniform standards for number pooling. Once a uniform, national plan for implementation of number pooling is in place, state commissions should have the option to determine when, if ever, their states will mandate number pooling, in conformity with the federal plan, again considering the impacts to and preferences of consumers in their states, the gravity of the area code relief situation in their states, and the costs to the industry and consumers of participation in pooling, as compared to the benefits gained from such participation. State commissions should also have the flexibility to determine if number pooling should be implemented in their states in conjunction with other number conservation measures or alone.

With regard to individual telephone number (ITN) pooling, the NCUC agrees that the development of technical standards and administrative guidelines is not as advanced, and that industry resources would be better spent at this time concentrating on implementation of thousands-block number pooling. The NCUC supports a revisiting of ITN pooling as soon as is practically feasible, however. Pooling at the individual number level, with any carrier in the pooling area able to use any number in that area, could greatly increase the efficiency of number allocation.

Regarding unassigned number porting (UNP), the NCUC agrees with the FCC's statement that, short of public safety concerns, there is no strong reason for prohibiting the practice where two or more carriers reach a mutual agreement to transfer unassigned numbers among themselves. The NCUC supports state commissions having the flexibility to make the determination to allow carriers to use UNP in a given area. The NCUC does not comment at this time on potential call-routing problems and public safety concerns associated with UNP, but agrees that these possible problems should be explored fully before a state commission makes a determination to order

UNP in a given area.

Pooling Roll-out. The NCUC understands that implementation of thousands-block number pooling is tied to switches being LNP-capable. However, the NCUC does not support an initial deployment schedule for thousands-block number pooling that is confined to the top 100 Metropolitan Statistical Areas (MSAs). Although it is likely that the area codes of the top 100 MSAs will most often need relief, given that the top 100 MSAs are more urban, if switches outside those MSAs are LNP-capable, the NCUC knows of no reason why carriers in those areas should not be required to participate in thousands-block number pooling if the state commission determines that number pooling is necessary, appropriate, and cost effective.

The NCUC supports a delegation by the FCC to state commissions to order thousands-block number pooling in any area that is LNP-capable, pursuant to a determination that the costs of ordering number pooling are outweighed by the benefits. The NCUC could support a regime where the state commission had the authority to either opt into a nationwide thousands-block pooling architecture on a regional basis, or to opt out of a "default" nationwide rollout of pooling, but if the state commission elected not to make the decision, another entity, such as the NANPA or the FCC could make it. However, the NCUC would only support such a regime if the state commission had to take some affirmative action abdicating its responsibility for the determination of when number pooling should be implemented in its state. It would not support a "one shot" approach where there was a nationwide rollout and the state commissions had to decide by a date certain whether they would take responsibility for this decision, and if they did not take responsibility another entity would. State commissions should have the flexibility to decide to implement number pooling whenever they determine that it is in the interest of their citizens, unless the state commission affirmatively turns over the responsibility for that decision to another entity.

The NCUC agrees with the FCC's conclusion that certain criteria would need to be met to justify a decision to opt in or out of thousands-block number pooling. However, the NCUC reiterates that the criteria should allow state commissions the flexibility to address local circumstances in a timely fashion. The NCUC supports the FCC's establishment of general guidelines to determine when pooling is most beneficial, and indeed would find such guidelines most helpful, but state commissions should be delegated the authority to make the final decisions regarding implementation of number pooling in their states. The NCUC does not support the establishment of a certain, strict number of competing service providers in a given area as a prerequisite for number pooling. Nor does the NCUC favor the establishment of a strict criterion for pooling participation that dictates the number of NXX codes or thousand blocks that must remain in the particular area code where number pooling is to take place. State

commissions can consider those numbers when looking at the overall situation and determining whether number pooling should be implemented. Again, the NCUC does not support on-going or planned rate center consolidation being a prerequisite for number pooling, for the reasons articulated above.

Non-LNP Capable Carriers. The NCUC agrees with the FCC's conclusion that, once covered CMRS carriers are LNP-capable, they should be equally subject to any number pooling requirement that the FCC may adopt for LNP-capable wireline carriers. This is true regardless of whether they are in the top 100 MSAs. The NCUC agrees with other state commissions that there is potential for CMRS participation in number pooling to improve the effectiveness of number pooling. The scope of that improvement is, of course, dependent on the number of CMRS carriers in an area where number pooling is to be implemented. As stated above, state commissions can consider the total number of competing service providers (not just CMRS carriers) when evaluating whether or not pooling should be implemented in their states. The NCUC supports an acceleration of the date by which CMRS carriers are required to participate in number pooling, and thus become LNP-capable, in order to fully realize the benefits of number pooling.

The FCC also discusses a second category of non-LNP capable carriers--that consisting of wireline and covered CMRS carriers outside the largest 100 MSAs, that are required to deploy LNP at some time in the future only if and when they receive a request from a competing carrier. The FCC notes that it is unlikely that the deployment of LNP outside the largest 100 MSAs will be uniform. The NCUC believes that a carrier that establishes LNP capability based on another carrier's request should presumptively be required to participate in number pooling if the state commission has ordered number pooling.

Regarding the final category of non-LNP capable carriers--those wireless carriers that are outside the covered CMRS definition and are not required to deploy LNP at all, the NCUC takes no position at this time. The NCUC believes that further study is needed regarding the degree of the benefits that would result from requiring these carriers to participate in pooling, and whether they justify the significant costs and burdens that the FCC has concluded are not warranted for LNP purposes. The NCUC supports the investigation of feasibility of other number conservation measures for these carriers, since they are significant users of numbering resources. The NCUC agrees with the FCC's conclusion that number allocation cannot discriminate unfairly in favor of either number pooling participants or non-pooling participants.

Pooling Implementation Issues--Technical. The NCUC does not have the technical expertise to comment on the various technical issues pertaining to pooling

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implementation, and believes that subject matter experts in the industry can comment on those issues more appropriately. The NCUC does agree that the assurance of reliable provision of E911 service in a number pooling environment is essential.

Pooling Implementation Issues--Administrative. The NCUC supports codification by the FCC of minimal rules regarding number pooling administration, similar to the rules the FCC has codified pertaining to NANP administration. Voluntary industry guidelines have shown themselves, in many instances, to be ineffective in giving numbering resource administrators the authority they need to appropriately administer numbering resources. The NCUC recognizes that too many specific rules may actually hamper number pooling administration, and stresses that it does not support "over regulation." However, the pooling administrator would be aided by rules specifying its responsibilities, its authority to take particular enforcement actions if necessary, and its limitations.

With regard to the selection of a number pooling administrator, the NCUC is aware that the NANC is recommending that the current NANPA, Lockheed Martin IMS, be named as the thousands block pooling administrator without a competitive bidding process.² The National Association of Regulatory Utility Commissioners (NARUC) representatives to the NANC abstained from the NANC vote on the question, believing that it was more appropriate for the industry representatives to the NANC to make the recommendation, given that those parties will be the ones actually paying for number pooling administration. The Chairman of the NCUC is a representative of NARUC on the NANC, and therefore the NCUC will not comment further on the question of whether the NANPA should serve as the thousands-block pooling administrator or whether the FCC should seek competitive bids.

Regarding carriers' donation of uncontaminated or lightly contaminated thousands-blocks for number pooling, the NCUC does not oppose an initial contamination level of 10% being set, but agrees with some parties that commented on the FCC's Public Notice on number conservation issues that potential inequities may result if carriers with an embedded number base, such as incumbent local exchange carriers, have few blocks to contribute to the pool because they have at least some numbers assigned in every thousands-block. The NCUC suggests that state commissions, as part of any authority delegated to them to order number pooling in their states, also have authority to increase the contamination level for particular carriers if circumstances warrant.

² See NANC Action Items and Decisions Reached, July 20-21, 1999.

The NCUC is in favor of the FCC's ordering sequential number assignment practices before the actual implementation of number pooling. Sequential number assignment will maximize the number of uncontaminated thousands-blocks that can be pooled. The NCUC agrees that any sequential number assignment requirements should be structured to allow carriers to meet the needs of their large customers and should not unduly hamper carriers in their business practices. At a minimum, sequential number assignment requirements should be adopted for all areas that are LNP-capable and, thus, have the potential to participate in number pooling.

Transition Issues. The NCUC supports the implementation of thousands-block number pooling in a manner that will not impede a future transition to ITN pooling, if it is determined that the benefits of ITN pooling would outweigh the costs. The NCUC agrees that ITN appears to offer the most efficient use of numbering resources but acknowledges that a great deal of work remains to be done before ITN could be implemented. The NCUC agrees that resources should be concentrated on thousands-block pooling in the immediate future.

Carrier Choice of Numbering Optimization Strategy. The NCUC does not support the regime proposed by the FCC wherein carriers would simply be required to meet a certain utilization threshold and could choose what number optimization measures to use to ensure that they met the threshold. It is the NCUC's position that such a system would greatly decrease the effectiveness of particular number conservation methods such as thousands-block number pooling. Simply put, if carriers are not required to pool numbers, they are much less likely to do it, and the cumulative impact of number pooling in individual area codes and across the NANP will be significantly diminished. If carriers with higher utilization choose not to participate in number pooling, they would continue to receive numbers in blocks of 10,000, leading to the potential for stranded numbers, at least for some time after they received the NXX code. The pooling administrator will have no access to those numbers and will have to request and assign more resources for those carriers that are participating in number pooling. Another problem with a carrier choice regime would be the almost impossible task of fairly allocating costs for number optimization measures among the industry.

Further, a carrier choice regime would limit state commissions' ability to address number resource optimization in their states, and to order carriers to take specific actions to conserve numbers or use them more efficiently. A carrier choice regime would mean absolutely no uniformity in number optimization. State commissions will have no latitude to consider the circumstances of their particular area codes and develop consistent, orderly, competitively neutral and effective conservation plans.

In summary, the NCUC joins many other state commissions in strongly opposing

a carrier choice regime. It is the position of the NCUC that it would be impossible for regulators at the state or federal level to effectively address numbering and area code relief issues at all if such a system were ordered. Most importantly, thousands-block number pooling might never be a viable number optimization measure unless all LNP-capable carriers can be ordered to participate in a number pool. Thousands-block number pooling, while undoubtedly not an option for every state, has the potential to greatly enhance the efficiency of number assignment and allocation. It should not be, effectively, "taken off the table" before it is ever given a chance to work.

V. Pricing Options

The NCUC believes that the FCC proposal to shift to a number allocation system wherein carriers pay for the numbering resources they request or receive should be further explored and could be effective in deterring carriers from requesting numbers for which they have no immediate need or from maintaining stockpiles of unused numbers. Such an approach is forward-thinking and may have benefits in the future. However, moving to such a system would represent a tremendous departure from traditional assignment practices and the many issues raised in the NPRM would take a great deal of time to explore. Because of the immediate and pressing need for change in number assignment and allocation, resources should be concentrated in the short term on developing rules to "tighten" number assignment and administration and establishing uniform, national standards for thousands-block number pooling. Once the current crisis is brought under control, resources might appropriately be spent exploring a market-based number assignment and allocation scheme.

VI. Area Code Relief

Geographic Splits. The NCUC agrees with the lists of advantages and disadvantages of geographic area code splits as listed in the NPRM. Most significantly, geographic splits require approximately one-half of the citizens in an area code that is being relieved to change their telephone numbers and have a new area code. On the other hand, geographic splits allow citizens to continue to associate an area code with a particular geographic area, and allow seven-digit dialing within an area code. The NCUC does not support the codification of additional rules or guidelines at the federal level with respect to the implementation of geographic splits at this time. State commissions continue to need the flexibility to make decisions regarding area code relief and to set the boundaries of a geographic split in the most appropriate way, considering the local circumstances, consumer preferences, and communities of interest. Regarding whether splits should be limited or conditioned if

rate center consolidation, LNP, or number pooling have been implemented, again, the NCUC does not support the imposition of such conditions. State commissions are capable of considering all of the circumstances in a particular area code when making their decisions regarding area code relief.

All-Services Overlays. The NCUC agrees that the principal disadvantage of all-services overlays is that consumers are forced to dial ten digits for all local calls when an overlay is implemented. The NCUC supports the elimination of the ten-digit dialing requirement for all-services overlays. It is true that the ten-digit dialing requirement mitigates dialing disparity resulting from implementation of an overlay that could be perceived as a competitive disadvantage. However, the mitigation of that potential competitive disadvantage does not justify the inconvenience of ten-digit dialing being forced upon citizens who are not yet enjoying any benefits of a competitive telecommunications marketplace anyway. For once, the interests of consumers need to outweigh the interests of the telecommunications industry.

Service-Specific and Technology-Specific Overlays. The NCUC agrees that it is appropriate for the FCC to reexamine its policies with respect to service-specific or technology-specific overlays. Any anticompetitive effects of such overlays, which the NCUC believes are questionable, would be mitigated if the overlays were prospective only and did not include "takebacks" of currently assigned wireless numbers. The NCUC recognizes that in many, if not most, instances a technology-specific overlay to relieve a given area code would not be a good option from a number resource optimization perspective. As the FCC notes, wireless carriers often require fewer NXX codes than wireline carriers to serve the same geographic area, so service-specific overlays that cover the same geographic scope as area codes that already exist might decrease the efficiency with which numbering resources are used. However, there may be some densely populated areas in the country where, for instance, a wireless-only overlay would not be impractical from a number utilization perspective. Further, the NCUC supports further exploration of the possibility of implementing statewide, regional, or even nationwide area codes for particular technologies, if they could be implemented in a manner that makes efficient use of numbering resources.

VII. Conclusion

The NCUC appreciates and supports the FCC's efforts to address the numbering crisis NANP members are now facing. The FCC should move quickly to codify rules implementing the various administrative measures it proposes to impose more discipline in the process of number allocation and assignment. It should also establish a uniform, national plan for thousands-block number pooling including technical requirements and administrative guidelines. State commissions should have the flexibility to order the number optimization measures that they determine are most beneficial in their states, given their familiarity with local circumstances and consumer preferences.

Respectfully submitted,

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